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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,380	04/12/2004	Jun-Sang Park	678-1323 (P11450)	2848
28249	7590	05/17/2005	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			BROUSSARD, COREY M	
			ART UNIT	PAPER NUMBER
			2835	

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/822,380	PARK ET AL.	
	Examiner	Art Unit	
	Corey M. Broussard	2835	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 9 is/are rejected.
- 7) ☐ Claim(s) 4-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/07/05</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 recites the limitation "third key array" in line 2. There is insufficient antecedent basis for this limitation in the claim. Neither a first nor a second key array is recited in the parent claim, necessitating a third.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Ozaki et al. (EP 1,207,671). With respect to claim 1, Ozaki teaches a portable swing-type digital communication device comprising: a body housing (2); a swing housing (1) rotatably attached to the body housing by means of a hinge module (7), the swing housing rotatable about a hinge axis at a prescribed angle perpendicular to the top surface of the body housing (see Fig. 2A), the swing housing being disposed at a prescribed angle to a planar surface of the body housing when the swing housing is rotated to a prescribed angle from the body housing; and a step compensating

mechanism (2a) for preventing a step between the top surface of the body housing and the top surface of the swing housing when the swing housing is rotated to the prescribed angle from the body housing.

5. With respect to claim 3, Ozaki teaches wherein the swing housing (1) has a speaker unit (4), a display unit (3), and a third key array (8) arranged on the top surface thereof, the display unit being disposed adjacent to the speaker unit, the third key array comprising at least one key disposed adjacent to the display unit (see col 3, lines 46-48, Fig. 1A).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki et al. (EP 1,207,671) in view of Kuroda (US Pub 2004/0048632) and Pallakoff (US Pub 2002/0163504). With respect to claim 2, Ozaki teaches the device as applied to claim 1 above, and wherein the body housing comprises: a first key array (5) and a microphone unit (6) arranged on the top surface thereof, the first key array having a plurality of keys, the microphone unit being disposed adjacent to the first key array (see col 3, lines 44-46). Ozaki lacks the specific teaching of a second key array, camera lens, and lighting unit. Pallakoff teaches a portable digital communication device (100)

with a body housing having a second key array arranged on one of the side surfaces thereof, the second key array having a plurality of keys (101, 102, 103, see Fig. 1). Kuroda teaches a portable digital communication device with a camera lens (11) and lighting unit (16) arranged on the bottom surface thereof (see Fig 3), the lighting unit being disposed adjacent to the camera lens. Kuroda lacks the specific teaching of a pair of lighting components, but it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. It would have been obvious to a person of ordinary skill in the art to combine the swing type device of Ozaki with the side buttons of Pallakoff and back camera of Kuroda to obtain a portable communication device with side buttons allowing for faster typing of text and a camera allowing the device to capture images and two lighting units allowing the camera to function in lower light conditions than just one lighting unit provides for.

### ***Response to Arguments***

8. Applicant's arguments, see page 5, lines 16-21, filed 04/04/2005, with respect to the rejection of claims 1-3 and 9 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new grounds of rejection is made in view of Ozaki et al. (EP 1,207,671). With respect to the objections to claims 3 and 9, the ordinary meaning of the word "third" is used to describe a position in a series. The original claims and their parents did not contain the preceding elements in the implied series; therefore a lack of

antecedent basis was present for the limitation of a "third" element. The Examiner acknowledges that the change in dependency of claim 9 to depend upon claim 2 has resolved this issue with respect to claim 9, but notes that it was not a suggestion of the Examiner as stated by the applicant on page 5, lines 12-14. Claim 3 remains improper and has been rejected under 35 U.S.C. 112 accordingly.

### ***Allowable Subject Matter***

1. Claims 4-8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. The following is a statement of reasons for the indication of allowable subject matter: The claimed combination of the semicircular section formed at one end of the swing housing with compensating member and recess as claimed is not rendered obvious over prior art. The prior art of record to Gray discloses the swing type housing with a hinge but lacks clear teaching of a recess formed for the compensating member. Note also Brandenburg et al., Kinke-Anlauff, and SanGiovanni showing the general state of the art of swing housing step compensating portable devices.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey M. Broussard whose telephone number is 571 272 2799. The examiner can normally be reached on 7:30-5 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on 571 272 2092. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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